

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JONATHAN FLORES-AYAR,

Defendant.

Case No. 15-cr-00122-EMC-1

ORDER TO SHOW CAUSE

Docket No. 106

Defendant Jonathan Flores-Ayar has filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. Docket No. 106. In his motion, Mr. Flores-Ayar contends that his conviction of conspiracy to commit Hobbs Act robbery does not qualify as a crime of violence under either the force clause or the residual clause of 18 U.S.C. § 924(c) (possession and brandishing of a firearm in furtherance of a crime of violence). *Id.* at i-ii.

Pursuant to the Federal Rules Governing Section 2255 Proceedings, the Court has conducted a preliminary review of the motion. *See* Fed. R. Governing § 2255 Proceedings 4 (providing that “[t]he judge who receives the motion must promptly examine it”). Based on this review, the Court cannot say that it “plainly appears from the motion . . . that the moving party is not entitled to relief.” *Id.* Accordingly, the Court hereby orders the United States to respond to the motion per the schedule below. *See id.* (providing that, “[i]f the motion is not dismissed, the judgment must order the United States attorney to file an answer, motion, or other response within a fixed time, or to take other action the judge may order”).

1. The United States shall file a response to Mr. Flores-Ayar’s motion within sixty (60) days of the date of this order.

2. If the United States files an answer, it must conform to Rule 5 of the Federal Rules

1 Governing § 2255 Proceedings. If the United States files an answer, Mr. Flores-Ayar may submit
2 a reply within ninety (90) days of the date of this order.

3 3. If the United States responds with, *e.g.*, a motion to dismiss or any other motion for
4 relief, the parties shall meet and confer to discuss a mutually agreeable briefing schedule.

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6 **IT IS SO ORDERED.**

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8 Dated: June 27, 2016

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11 EDWARD M. CHEN
12 United States District Judge
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